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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,703	03/26/2001	Alexander Straub	LEA-33-187	3269

7590 07/25/2003
Jeffrey M Greenman
Bayer Corporation
400 Morgan Lane
West Haven, CT 06516

EXAMINER

FORD, JOHN M

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 07/25/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744203

Applicant(s)

L Frank et al

Examiner

J. M. Ford

Group Art Unit

1624

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P riod for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on June 26, 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-- 8, 10, 11, 13, 18, 19 and 21 is/are pending in the application.
- Of the above claim(s) 7, 10, 11, 18, 19 and 21 is/are withdrawn from consideration.
- ☒ Claim(s) 1-- 6 and 13 is/are allowed.
- ☒ Claim(s) 2 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Acti n Summary

Art Unit: 2913

Applicant's response of June 26, 2003, is noted.

The claims in the application are claims 1—8, 10, 11, 13, 18, 19 and 21.

Claim 1 is extremely hard to read and understand, the pyrimidine controls the classification. *Is* the pyrimidine always monocyclic?

Claims 1—6 are allowed.

Claim 7 stands withdrawn, as it is directed to pyrazoles.

Claims 10, 11, 18, 19 and 21 stand withdrawn.

Claim 8 is rejected under 35 U.S.C. 112, 2nd paragraph. The phrases "at least one" open the claims to more than compounds of claim 1. "One or more" is suggested.

The word "general" is no longer in claim 1. Therefore, *there* is no antecedent basis for the term in claim 8.

Claim 13 is allowed.

Claim 19 stands withdrawn, as there is no antecedent basis in claim 6 for claim 19. If there were, it would be restricted *out* as processes that proceed by wave radiation are separately classified and searched. This *claim 9* would require additional searching, which cannot be *done*.

Claims 10, 11, 18 and 21 stand withdrawn as they include more than compounds of claim 1. Therefore, they would not be of the same scope as that which has been searched. Claims 10, 11, 18 and 21 would most assuredly not be allowed, as they do not even say what the additional active *ingredient is*. The claim would have to be amended to say what the additional active ingredient is, and that material classified

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and searched. This would require additional searching, which cannot be done. The search time provided for each application has long since been used up.

The agreement to Examine one process of preparing, and one process of using the compound invention searched, is based on their being of the same scope of the claim s allowed, i.e. little or no additional work. However, that is not true of claims 10, 11, 18, 19 or 21, so they stand withdrawn under 37 CFR 1.142(b).

514-256 is the classification of pyrimidines in regard to claim 13. However, additional active ingredient claims with the pyrⁱmidine are in class 514-264 or 265 depending on what the additional active ingredient is. Here we do not know what the additional active ingredient is, but we know it would be an additional search, once we know what it is, and ^{if} it is a structure that comes out before the pyrimidine, ⁱⁿ the classification system, then the search would be ⁱⁿ further subclasses.

John M. Ford: jmr

July 22, 2003



JOHN M. FORD
PRIMARY EXAMINER

Drop to Unit 162K